IN THE HIGH COURT OF JUDICATURE AT PATNA

Cr.Misc. No.5731 of 2007

**RAM DAS YADAV SON OF SRI RAMESHWAR YADAV
RESIDENT OF VILLAGE DHURGAON TOLA BAKHARI,
P.S. AND DISTRICT-MADHEPURA.
--PETITIONER**

Versus

THE STATE OF BIHAR --OPP.PARTY

———

**For the Petitioners : M/s Radhey Shyam Prasad
& Praveen Kr.Agrawal**

**For the State : Mr. Chandra Sen Pd.Singh,
APP**

3 05.05.2010 Heard learned counsel for the petitioner and the State.

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Admittedly, the petitioner is a Public Distribution System Dealer and Madhepura P.S. Case no. 286 of 2006 dated 7.10.2006 was instituted against him for the offences punishable under Sections 6 and 7 of the Essential Commodities Act.

It is undisputed that Public Distribution System Dealer appointed by the State Government has been exempted under Bihar Trade Articles (Licenses Unification) Order, 1984 framed under the Essential Commodities Act under Section 31(1)(c). This Act has been replaced by Public

Distribution System (Control) Order, 2001 issued by the Central Government in pursuance of which necessary Notification by the State Government has been published on 15.2.2007. Clause 17 of 2001 Control Order states that the offences prior to the publication of the Notification shall be governed by the pre-existing laws meaning thereby the Trade Articles (Licenses Unification) Order, 1984 which excludes Public Distribution System Dealers from its applicability. Thus, on the date of occurrence, that is, 11.10.2006 the prosecution against the petitioner is not sustainable.

My attention has also been drawn towards a decision of this Court in Cr.Misc. no. 44386 of 2007 (Lalan Chaupal V. State of Bihar). Present case is similar to the case decided earlier.

In the result, this application stands allowed and the proceeding before the court below is hereby quashed.

(Akhilesh Chandra, J.)

AAhmad

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